

# Title 194 WAC

## COMMUNITY, TRADE AND ECONOMIC DEVELOPMENT, DEPARTMENT OF (ENERGY)

**Chapters**

- 194-12**      **Washington State Environmental Policy Act rules.**      194-10-140
- 194-14**      **Emergency Petroleum Allocation Act rules.**
- 194-18**      **Receipt of funds.**
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filed 8/11/82; Order 1, § 194-10-130, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98. Records index. [Statutory Authority: Chapter 34.05 RCW. 93-02-033, § 194-10-140, filed 1/5/93 effective 2/5/93. Statutory Authority: RCW 43.21F.045(12). 82-17-030 (Order 82-2), § 194-10-140, filed 8/11/82; Order 1, § 194-10-140, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.

**DISPOSITION OF CHAPTERS FORMERLY  
CODIFIED IN THIS TITLE**

**Chapter 194-10  
PUBLIC DISCLOSURE ACT RULES**

- 194-10-010      Purpose. [Order 1, § 194-10-010, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-020      Definitions. [Statutory Authority: RCW 43.21F.045(12). 82-17-030 (Order 82-2), § 194-10-020, filed 8/11/82; Order 1, § 194-10-020, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-030      Description of organization. [Statutory Authority: Chapter 34.05 RCW. 93-02-033, § 194-10-030, filed 1/5/93 effective 2/5/93. Statutory Authority: RCW 43.21F.045(12). 82-17-030 (Order 82-2), § 194-10-030, filed 8/11/82; Order 1, § 194-10-030, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-040      Procedures. [Statutory Authority: RCW 43.21F.045(12). 82-17-030 (Order 82-2), § 194-10-040, filed 8/11/82; Order 1, § 194-10-040, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-050      Public records available. [Statutory Authority: RCW 43.21F.045(12). 82-17-030 (Order 82-2), § 194-10-050, filed 8/11/82; Order 1, § 194-10-050, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-060      Exemptions. [Statutory Authority: RCW 43.21F.045(12). 82-17-030 (Order 82-2), § 194-10-060, filed 8/11/82; Order 1, § 194-10-060, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-070      Public records officer. [Order 1, § 194-10-070, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-080      Office hours. [Order 1, § 194-10-080, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-090      Requests for public records. [Statutory Authority: RCW 43.21F.045(12). 82-17-030 (Order 82-2), § 194-10-090, filed 8/11/82; Order 1, § 194-10-090, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-100      Adoption of form. [Statutory Authority: Chapter 34.05 RCW. 93-02-033, § 194-10-100, filed 1/5/93 effective 2/5/93. Statutory Authority: RCW 43.21F.045(12). 82-17-030 (Order 82-2), § 194-10-100, filed 8/11/82; Order 1, § 194-10-100 and Form, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-110      Copying fees. [Statutory Authority: Chapter 34.05 RCW. 93-02-033, § 194-10-110, filed 1/5/93 effective 2/5/93; Order 1, § 194-10-110, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-120      Review of denials. [Statutory Authority: RCW 43.21F.045(12). 82-17-030 (Order 82-2), § 194-10-120, filed 8/11/82; Order 1, § 194-10-120, filed 1/18/77.] Repealed by 98-05-027, filed 2/9/98, effective 3/12/98.
- 194-10-130      Protection of public records. [Statutory Authority: Chapter 34.05 RCW. 93-02-033, § 194-10-130, filed 1/5/93 effective 2/5/93. Statutory Authority: RCW 43.21F.045(12). 82-17-030 (Order 82-2), § 194-10-130,

**Chapter 194-16  
FEES—RADIOACTIVE WASTE MANAGEMENT FACILITIES**

- 194-16-010      Purpose and scope. [Statutory Authority: RCW 43.21F.075(2). 82-11-005 (Order 82-1), § 194-16-010, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-010.
- 194-16-020      Authority. [Statutory Authority: RCW 43.21F.075(2). 82-11-005 (Order 82-1), § 194-16-020, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-020.
- 194-16-030      Definitions. [Statutory Authority: RCW 43.21F.075(2). 82-11-005 (Order 82-1), § 194-16-030, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-030.
- 194-16-040      Perpetual care and maintenance fee. [Statutory Authority: RCW 43.21F.075(2). 82-11-005 (Order 82-1), § 194-16-040, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-040.
- 194-16-050      PCM fee—Method of payment. [Statutory Authority: RCW 43.21F.075(2). 82-11-005 (Order 82-1), § 194-16-050, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-050.
- 194-16-060      PCM fee—Disposition. [Statutory Authority: RCW 43.21F.075(2). 82-11-005 (Order 82-1), § 194-16-060, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-060.
- 194-16-070      Severability. [Statutory Authority: RCW 43.21F.075(2). 82-11-005 (Order 82-1), § 194-16-070, filed 5/7/82.] Repealed by 83-18-020 (Order DE 83-25), filed 8/30/83. Statutory Authority: 1983 1st ex.s. c 19 and Title 43 RCW. Later promulgation, see WAC 173-44-070.

**Chapter 194-20  
ENERGY EFFICIENCY SERVICES ACCOUNT**

- 194-20-010      Purpose. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-010, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
- 194-20-020      Definitions. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-020, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
- 194-20-030      Criteria and procedures for setting fees. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-030, filed 12/19/91, effective

	1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
194-20-040	Life cycle cost analysis/energy conservation report fees. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-040, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
194-20-050	Receipt of funds. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-050, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
194-20-060	Net revenue from transactions for conservation. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-060, filed 12/19/91, effective 1/19/92.] Repealed by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
194-20-070	Net savings and net revenue from transactions for cogeneration. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-070, filed 12/19/91, effective 1/19/92.] Repealed by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.
194-20-080	Working capital requirements. [Statutory Authority: RCW 43.21F.045(12) and 1991 c 201 § 12. 92-01-120, § 194-20-080, filed 12/19/91, effective 1/19/92.] Amended and decodified by 00-08-039, filed 3/29/00, effective 4/29/00. Statutory Authority: Chapter 39.35C RCW.

### Chapter 194-12 WAC

#### WASHINGTON STATE ENVIRONMENTAL POLICY ACT RULES

##### WAC

194-12-010	Authority.
194-12-020	Statement of exemption.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

194-12-030	Scope and coverage. [Order 1, § 194-12-030, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-040	Incorporation by reference. [Order 1, § 194-12-040, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-050	Definitions. [Order 1, § 194-12-050, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-060	Exemptions. [Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-12-060, filed 8/11/82; Order 1, § 194-12-060, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-070	Designation of responsible official. [Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-12-070, filed 8/11/82; Order 1, § 194-12-070, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-080	Copies of public information. [Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-12-080, filed 8/11/82; Order 1, § 194-12-080, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-090	Consultation request guidelines. [Order 1, § 194-12-090, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-100	Involvement of private applicant in preparation of EIS. [Order 1, § 194-12-100, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
194-12-110	Preparation of EIS by persons outside the office. [Order 1, § 194-12-110, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.

194-12-120	Severability. [Order 1, § 194-12-120, filed 1/18/77.] Repealed by 84-20-044 (Order 84-01), filed 9/28/84. Statutory Authority: RCW 43.21C.120.
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**WAC 194-12-010 Authority.** This chapter is promulgated pursuant to the authority granted in RCW 43.21C.120, requiring each state agency to adopt rules implementing the State Environmental Policy Act.

This chapter is also promulgated to comply with WAC 197-11-904 (2) and (4).

[Statutory Authority: RCW 43.21C.120, 84-20-044 (Order 84-01), § 194-12-010, filed 9/28/84. Statutory Authority: RCW 43.21F.045(12), 82-17-030 (Order 82-2), § 194-12-010, filed 8/11/82; Order 1, § 194-12-010, filed 1/18/77.]

**WAC 194-12-020 Statement of exemption.** The Washington state energy office has reviewed the activities it is authorized to undertake and finds them all to be exempt as provided in part nine - Categorical exemptions WAC 197-11-875(23).

[Statutory Authority: RCW 43.21C.120, 84-20-044 (Order 84-01), § 194-12-020, filed 9/28/84; Order 1, § 194-12-020, filed 1/18/77.]

### Chapter 194-14 WAC

#### EMERGENCY PETROLEUM ALLOCATION ACT RULES

##### WAC

194-14-010	Authority.
194-14-020	Purpose.
194-14-030	Definitions.
194-14-040	Applications for set-aside assignments—Form.
194-14-050	Applications for set-aside assignment—Form—Exception.
194-14-060	State set-aside assignments.
194-14-070	State set-aside action.
194-14-090	Assignment of state set-aside supplier.
194-14-100	Submission of set-aside order to prime supplier.
194-14-110	Application for permanent assignment—Form.
194-14-120	Permanent assignments—Criteria—Agricultural and passenger transportation services end-users.
194-14-130	Permanent assignments—Criteria—All other end-users.
194-14-140	Permanent assignment action.
194-14-150	Appeals.
194-14-160	Appeals board.
194-14-170	Hearing.
194-14-180	Parties.
194-14-190	Appeal proceedings.
194-14-200	Prehearing conference.
194-14-210	Informal disposition.
194-14-220	Transcript.
194-14-230	Judicial review.
194-14-240	Agency decision.

#### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

194-14-080	State set-aside—Maximum quantities. [Order 1, § 194-14-080, filed 1/18/77.] Repealed by 79-09-078 (Order 79-1), filed 8/30/79. Statutory Authority: RCW 43.21F.050(12).
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**WAC 194-14-010 Authority.** This chapter is promulgated pursuant to the authority granted in RCW 34.04.020 and according to the guidelines established in 10 C.F.R. §205 of the Federal Mandatory Petroleum Allocation Regulations. [Order 1, § 194-14-010, filed 1/18/77.]

**WAC 194-14-020 Purpose.** The purpose of this chapter is to establish administrative procedures with respect to state

orders issued under the authority granted by the Emergency Petroleum Allocation Act and appeals from such orders.

[Order 1, § 194-14-020, filed 1/18/77.]

**WAC 194-14-030 Definitions.** The following words and terms have the following meanings for the purposes of this chapter, unless otherwise indicated:

(1) "Agricultural production" means all the activities classified under the industry code numbers specified in paragraph (a) below as set forth in the *Standard Industrial Classification Manual*, 1972 edition, except those industry code numbers listed in paragraph (b) which are excluded:

(a) Activities included.

(i) All industry code numbers included in Division A, agriculture, forestry and fishing, except as specified in paragraph (b) of this section.

(ii) All industry code numbers included in Major Group 20, food and kindred products, of Division D, as specified in paragraph (b) below; and

(iii) All the following other industry code numbers:

1474 Potash, soda and borate minerals (potash mining only);  
 1475 Phosphate rock;  
 2141 Tobacco stemming and redrying;  
 2411 Logging camps and logging contractors;  
 2421 Sawmills and planing mills;  
 2819 Industrial inorganic chemicals, not elsewhere classified (dicalcium phosphate only);  
 2873 Nitrogenous fertilizers;  
 2874 Phosphatic fertilizers;  
 2875 Fertilizers, mixing only;  
 2879 Pesticides and agricultural chemicals not elsewhere classified;  
 4212 Local trucking without storage (farm to market hauling and log trucking only);  
 4971 Irrigation systems (for farm use); and  
 5462 Retail bakeries, baking and selling.

(b) Activities excluded.

(i) All the following industry code numbers, otherwise listed under Division A, agriculture, forestry and fishing, are excluded from the definition:

0271 Fur-bearing animals and rabbits (except rabbit farms which are included in the definition);  
 0279 Animal specialties, not elsewhere classified (except apiaries, honey production and bee, catfish, fish, frog and trout farms which are included in the definition);  
 1742 Veterinary services for animal specialties;  
 0752 Animal specialty services;  
 0781 Landscape counseling and planning;  
 9782 Lawn and garden services; and  
 0949 Gathering of forest products, not elsewhere classified.

(ii) All the following industry code numbers, otherwise listed under Major Group 20, food and kindred products, of Division D, manufacturing, are excluded from the definition:

2047 Dog, cat and other pet food;  
 2067 Chewing gum; and  
 2085 Distilled, rectified and blended liquors.

Generally, an applicant may be considered as an agricultural producer if he derives the majority of his income from that activity.

(2007 Ed.)

(2) Assignment: An action designating that an authorized purchaser be supplied at a specified entitlement level by a specified supplier.

(3) Base period (or base allocation period):

(a) For gasoline means the month of the period November, 1977, through October, 1978, corresponding to the current month;

(b) For middle distillates means the month during calendar year 1978 corresponding to the current month.

(4) Base period supply volume: The volume of purchases from a supplier or to purchasers during the base period.

(5) "Bulk purchaser" means any firm which is an ultimate consumer which, as part of its normal business practices, purchases or obtains middle distillates or motor gasoline from a supplier and either (a) receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location, or (b) with respect to use in agricultural production, receives delivery into a storage tank with a capacity not less than 50 gallons substantially under the control of that firm. A bulk purchaser of heating oil would include any firm or individual needing the product for space heating and has a storage tank substantially under the control of that firm or individual at a fixed location.

(6) Coordinator: The director or his designee who is authorized to sign orders and authorizing documents for permanent assignments.

(7) Current requirements: The supply of an allocated product needed by an end-user or wholesale purchaser to meet its present supply requirement for any single month.

(8) Director: The director of the Washington state energy office.

(9) Emergency or severe hardship: A situation which, in the opinion of the office, represents a threat or foreseeable danger to the health, safety and well being of the citizens of the state.

(10) Emergency Petroleum Allocation Act: Public Law 93-159.

(11) Emergency services: Law enforcement, fire fighting, and emergency medical services.

(12) End-user: Any person who is an ultimate consumer of an allocated product other than a wholesale purchaser-consumer and is also a bulk purchaser.

(13) Energy production: The exploration, drilling, mining, refining, processing, production and distribution of coal, natural gas, geothermal energy, petroleum or petroleum products, shale oil, nuclear fuels and electrical energy. It also includes the construction of facilities and equipment used in energy production, such as pipelines, mining equipment and similar capital goods. Excluded from this definition are synthetic natural gas manufacturing, electrical generation whose power source is petroleum based, gasoline blending and manufacturing and refinery fuel use.

(14) Fleetpool: A government or private motor pool which is used during nonwork hours for commuter ridesharing purposes. To qualify as a fleetpool, these general guidelines must be observed:

(a) The motor pool must have a fleet of five or more passenger vehicles;

(b) The principle use of the vehicles must be for the regular business of the firm, other than commuting;

(c) During nonwork hours, the vehicles may not be used for private errands, other than commuting;

(d) The government or business entity must enact a formal agreement with the employees consistent with the terms of this regulation; and

(e) During the commute each such vehicle must be shared on a regular basis by three or more persons.

(15) Market area: The delineation of the market area will vary in each case, and ultimately will be determined by the office. There can be no hard and fast criteria, but some general guidelines may be observed:

(a) In a city of 25,000 population, the market area to be considered should be the area within a one-mile radius of the applicant or affected party.

(b) In a suburban area (housing developments, shopping centers, apartments) the market area to be considered should be the area within a two-to-three mile radius of the applicant or affected party, depending upon the density of recent growth and traffic pattern characteristics in the area.

(c) On a nonurban arterial highway with full control of access, the market area should include the area within one-fourth mile of the access point and the next two access points in each direction from the applicant or affected party.

(d) On a nonurban arterial highway with uncontrolled access or partially controlled access, the market area should include five miles in either direction along the highway from the applicant or affected party.

(e) On a through street or through highway in a rural area, the market area should be that area within a five mile radius of the applicant or affected party.

(f) In a town under 25,000 population, the market area should be a two mile radius from the applicant or affected party.

As used in the above guidelines, the following terms have the following meanings:

"Arterial highway" means a highway primarily for through traffic, usually on a continuous route.

"Full control of access" means that the authority to control access is exercised to give preference to through traffic by providing access connections with selected public roads only and by prohibiting crossings at grade or direct private driveway connections.

"Partially controlled access" means that the authority to control access is exercised to give preference to through traffic to a degree that, in addition to access connections with selected public roads, there may be some crossings at grade and some private driveway connections.

(16) Medical and nursing buildings: Buildings that house medical, dental or nursing activities including, but not limited to those listed in Appendix I of 6 CFR 300.18-300.19, the use of clinics, hospitals, nursing homes and other facilities.

(17) Middle distillate: Any derivatives of petroleum including kerosene, home heating oil, range oil, stove oil, and diesel fuel, which have a fifty percent boiling point in the ASTM D86 standard distillation test falling between 371° and 700° F. Products specifically excluded from this definition are kerosene-base and naphtha-base jet fuel, heavy fuel oils as defined in VV-F-815C or ASTM D-396, grades #4, 5, and 6, intermediate fuel oils (which are blends containing #6

oil), and all specialty items such as solvents, lubricants, waxes and process oil.

(18) Motor gasoline: A mixture of volatile hydrocarbons, suitable for operation of an internal combustion engine, whose major components are hydrocarbons with boiling points ranging from 140° to 390° F and whose source is distillation of petroleum and cracking, polymerization, and other chemical reactions by which the naturally occurring petroleum hydrocarbons are converted to those that have superior fuel properties.

(19) Office: The Washington state energy office.

(20) Officer: The director or his designee who is authorized to sign orders and authorizing documents for state set-aside assignments.

(21) Order: A written directive or verbal communication of a written directive if promptly confirmed in writing, issued by the office concerning state set-aside assignments or permanent assignments, or a written document issued by the fuel allocation appeals board deciding an appeal from an order of the office. An order shall be deemed to be issued on the date on which it is signed by the officer or coordinator. With respect to permanent assignment orders, they shall not become effective unless and until the regional DOE office authorizes the action. Set-aside assignment orders are effective on the date of issuance.

(22) Passenger transportation services:

(a) Air, land and water facilities and services designed and used for the carrying of passengers whether publicly or privately owned. These facilities and services shall include, but not be limited to: Tour buses, charter buses, taxicabs and other methods or modes which serve the general public on a for hire or fare basis; special transportation services for the elderly and/or handicapped; vanpools and shuttle buses which shall regularly carry at least seven persons, including the driver and which at least eighty percent of that vehicles mileage can be verified as attributed to the use of commuting; fleetpools; and

(b) Bus transportation of pupils to and from school and school sponsored activities.

(23) Permanent assignment: A recommendation by the office to the U.S. Department of Energy that an applicant be assigned a permanent supplier and an allocation entitlement.

(24) Prime supplier: The supplier or producer which makes the first sale of any allocated product subject to the state set-aside into the state distribution system for consumption within the state.

(25) Purchaser: Wholesale purchaser, end-user, or both.

(26) Retail gasoline outlet: Wholesale purchaser-reseller which purchases or otherwise obtains gasoline and resells or otherwise transfers it to ultimate consumers.

(27) Sanitation services: The collection and disposal for the general public of solid wastes, whether by public or private entities, and the maintenance, operation and repair of liquid purification and waste facilities during emergency conditions. Sanitation services also includes the provision of water supply services by public utilities, whether privately or publicly owned or operated.

(28) Set-aside: The amount of an allocated product which is made available from the total supply of a prime supplier to resolve emergencies and hardships due to fuel shortages, pursuant to 10 C.F.R. §211.17.

(29) Supplier: Any firm or subsidiary of any firm which presently sells, transfers or otherwise furnishes any allocated product or crude oil to wholesale purchasers or end-users.

(30) Telecommunications services: The repair, operation, and maintenance of voice, data, telegraph, video, and similar communications services to the public by a communications common carrier, during periods of substantial disruption of normal service.

(31) Truck: A motor vehicle with motive power designed primarily for the transportation of property or special purpose equipment and with a gross vehicle weight rating for a single vehicle (the value specified by the manufacturer as the loaded weight of the vehicle) or the equivalent thereof in excess of 20,000 pounds, or in the case of trucks designed primarily for drawing other vehicles and not so constructed as to carry a load other than part of the weight of the vehicle and the load so drawn, with a gross combination weight rating (the value specified by the manufacturer as the loaded weight of the combination vehicle) or the equivalent thereof in excess of 20,000 pounds.

(32) Wholesale purchaser-consumer: Any firm that is an ultimate consumer which, as part of its normal business practices, purchases or obtains an allocated product from a supplier and receives delivery of that product into a storage tank substantially under the control of that firm at a fixed location and which either:

(a) Purchased or obtained more than 20,000 gallons of that allocated product for its own use in agricultural production in any completed calendar year subsequent to 1971;

(b) Purchased or obtained more than 50,000 gallons of that allocated product in any completed calendar year subsequent to 1971 for use in one or more multifamily residences; or

(c) Purchased or obtained more than 84,000 gallons of that allocated product in any completed calendar year subsequent to 1971.

(33) Wholesale purchaser-reseller: Any firm which purchases, receives through transfer, or otherwise obtains an allocated product and resells or otherwise transfers it to other purchasers without substantially changing its form.

[Statutory Authority: RCW 43.21F.050(12), 80-18-035 (Order 80-1), § 194-14-030, filed 12/2/80; 79-09-078 (Order 79-1), § 194-14-030, filed 8/30/79; Order 1, § 194-14-030, filed 1/18/77.]

**WAC 194-14-040 Applications for set-aside assignments—Form.** Except as provided in WAC 194-14-050, all applications for state set-aside assignment shall be submitted on forms approved by the office or in a signed letter containing the following information:

(1) The applicant's name, address, telephone number, prime supplier, amount requested and an explanation of the reason for the application, including the date by which the product is needed[(;)][,] and if available, the applicant's allocation for the month of application.

(2) The applicant must identify energy conservation programs which that individual or firm has in effect.

(3) If the applicant is a wholesale purchaser-reseller, current retail prices being charged for the requested fuel.

(4) If the applicant is a service or gas station, anticipated days and hours of operation.

(2007 Ed.)

The office may request such additional information from an applicant as it deems necessary.

[Statutory Authority: RCW 43.21F.050(12), 79-09-078 (Order 79-1), § 194-14-040, filed 8/30/79; Order 1, § 194-14-040, filed 1/18/77.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 194-14-050 Applications for set-aside assignment—Form—Exception.** An application for state set-aside assignment may be made orally when extraordinary circumstances make it impossible for the applicant to submit a written application. When a verbal request is made, the office will require written confirmation of the applicant of the information required by WAC 194-14-040.

[Order 1, § 194-14-050, filed 1/18/77.]

**WAC 194-14-060 State set-aside assignments. (1)** General. To the extent that such supplies are available to the state, assignments from the state set-aside may be made to wholesale purchaser-consumers and end-users located within the state who demonstrate hardship or emergency, or to wholesale purchaser-resellers to enable them to supply such persons. An applicant may be deemed to demonstrate hardship if:

(a) Such applicant is undergoing curtailment of an energy source and must depend on an alternate source of energy for which he has no allocation or an insufficient allocation; or

(b) Said applicant is a wholesale purchaser-reseller and demonstrates:

(i) A need for additional product as a result of supply imbalance; and

(ii) Good faith compliance with fair marketing practices; and

(iii) In cases where long term relief is available through action by the U.S. DOE, that such action has been initiated by the applicant; or

(c) Said applicant is an end-user or wholesale purchaser-consumer who is unable to obtain needed product for his own use from his supplier of record.

(d) Said applicant has an energy conservation program in effect.

[(2)] Priorities and procedures

(a) To the maximum extent practicable the order in which cases will be processed for the month of request will be as follows:

(i) Emergency or severe hardship situations, including space heating requirements of medical and nursing buildings;

(ii) Passenger transportation services;

(iii) Wholesale purchaser-consumer or end-user needing the product, in the opinion of the office, to avoid a serious disruption in their business operations;

(iv) Retail outlets which are experiencing, in the opinion of the office, an unusually low allocation level as compared to their average allocation levels because of such things as road construction, illness, specific market area problems, or other circumstances which prevented normal operations during the base period. Also included in this category are service stations located in discrete market areas or communities

which may be experiencing severe supply imbalances as compared to the statewide average. Such imbalances may be due to disproportionate growth, unanticipated demand, or product loss, (e.g., station closures) since the base allocation period. In addition, the office may determine it appropriate to issue set-aside on the basis that an emergency or serious disruption in the market place may occur if such state action is not taken;

(v) All remaining cases representing wholesale purchaser-consumers or end-users;

(vi) All remaining applicants.

(b) If set-aside product is not available to meet all requests within a given category, as listed above in (2)(a), cases within that category will be processed on a first-in, first-out basis. No distinction will be made among cases received prior to the first of the month for which the product is requested. All such cases will be randomly logged in as being received on the first of the month.

(3) Acceptance of product. Applicants receiving a set-aside assignment must notify their supplier of their intent to receive the allocated product no later than 7 days from the date the order was issued, whichever comes sooner. Such notification having been given, the set-aside order is valid irrespective of the fact that the allocated product may not be delivered during the month the assignment was made.

[Statutory Authority: RCW 43.21F.050(12). 79-09-078 (Order 79-1), § 194-14-060, filed 8/30/79; Order 1, § 194-14-060, filed 1/18/77.]

**Reviser's note:** RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

**WAC 194-14-070 State set-aside action.** The office shall take action on an application by either ordering an assignment, denying the application or requesting more information within ten business days after the application has been received by the office. If the office fails to take action on an application within ten days, the applicant may treat the application as having been denied in all respects and may appeal therefrom. If an application is denied, a copy of the denial shall be served upon the applicant.

[Order 1, § 194-14-070, filed 1/18/77.]

**WAC 194-14-090 Assignment of state set-aside supplier.** State set-aside assignments shall generally be issued through the prime supplier with whom the applicant has an established base period supply volume. In exceptional cases, the office may order assignments through alternate prime suppliers or may split assignments between prime suppliers. When assignments are made to a retail gasoline outlet from a supplier other than the supplier associated with the outlet's brand name, the applicant shall comply with RCW 9.16.080 and shall post a disclaimer to the effect that the product sold is not the brand usually associated with the outlet.

[Order 1, § 194-14-090, filed 1/18/77.]

**WAC 194-14-100 Submission of set-aside order to prime supplier.** Upon approval by the office of a state set-aside assignment, the fuel allocation officer shall issue a written order authorizing the assignment and shall serve it on the

prime supplier and, where applicable, the local distributor of the prime supplier, from whose set-aside the assigned product is to be drawn. An order issued by the office under this section is effective upon issuance, unless stayed, modified, suspended or rescinded, and represents a call on the prime supplier's set-aside volume for the month of issuance, even if delivery of the product cannot be made until the following month.

[Order 1, § 194-14-100, filed 1/18/77.]

**WAC 194-14-110 Application for permanent assignment—Form.** An application for a permanent assignment which falls under the state's jurisdiction shall be made on forms issued by the Federal Energy Administration for that purpose and shall be filed with the office. Forms shall be available from the office.

[Order 1, § 194-14-110, filed 1/18/77.]

**WAC 194-14-120 Permanent assignments—Criteria—Agricultural and passenger transportation services end-users.** Applications from agricultural and passenger transportation services end-users will be approved. These end-users must satisfy the office through proper verification and certification that they meet the classification of agricultural or passenger services end-user.

[Statutory Authority: RCW 43.21F.050(12). 79-09-078 (Order 79-1), § 194-14-120, filed 8/30/79; Order 1, § 194-14-120, filed 1/18/77.]

**WAC 194-14-130 Permanent assignments—Criteria—All other end-users.** Applications from all other end-users will not be approved unless the following conditions apply:

(1) There is severe economic impact on the business directly resulting from reliance on retail purchases by that business; and

(2) An energy conservation program is in effect as demonstrated to the office; and

(3) Every attempt has been made, including feasible changes in regular business operations, to obtain needed fuel through retail outlets.

[Statutory Authority: RCW 43.21F.050(12). 79-09-078 (Order 79-1), § 194-14-130, filed 8/30/79; Order 1, § 194-14-130, filed 1/18/77.]

**WAC 194-14-140 Permanent assignment action.** If a permanent assignment is approved by the office, the coordinator shall issue a written recommendation to the regional office of the Federal Energy Administration for final disposition. A copy of the recommendation shall be sent to the applicant and to the applicant's supplier. If a permanent assignment is denied by the office, the coordinator shall issue an order of denial. The order shall be served upon the applicant.

[Order 1, § 194-14-140, filed 1/18/77.]

**WAC 194-14-150 Appeals.** Any person aggrieved by an order of the office may file an appeal from such order with the director. Notice of appeal shall be filed within 15 days of the order from which the appeal is taken, and shall be in writing and signed by the appellant. Each appeal shall state:

(1) The reason for the appeal, including the reasons appellant believes the order to be unjust or unwise;

(2) The names and addresses of persons known to appellant who might be adversely affected by the outcome of the appeal;

(3) The nature of the relief sought, whether reversal, modification or some other relief;

(4) A demand for a hearing, or all appeal documents if no oral hearing is requested.

[Order 1, § 194-14-150, filed 1/18/77.]

**WAC 194-14-160 Appeals board.** All appeals taken under these regulations shall be heard by the fuel allocation appeals board which shall consist of the director of the office or his designee who shall serve as ex officio member, and the directors, or their designees, of the Washington state departments of agriculture, state patrol and commerce and economic development.

[Statutory Authority: RCW 43.21F.050(12), 79-09-078 (Order 79-1), § 194-14-160, filed 8/30/79; Order 1, § 194-14-160, filed 1/18/77.]

**WAC 194-14-170 Hearing.** Within 20 days after the receipt of a notice of appeal, the director shall set a hearing date or, if no hearing is requested, a date for consideration of the appeal by the appeals board. The director shall serve upon all affected persons known to the director:

(1) A statement of the time, place and nature of the proceeding;

(2) A statement of the legal authority and jurisdiction under which the hearing is to be held;

(3) A reference to the particular sections of the statutes and rules involved;

(4) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is served, the initial notice may be limited to a statement of the issues involved. Thereafter upon request a more definite and detailed statement shall be furnished.

[Order 1, § 194-14-170, filed 1/18/77.]

**WAC 194-14-180 Parties.** For purposes of these rules, the parties to an appeal shall be the appellant and the office. If the appellant is a person other than the original applicant for the order, the applicant may be permitted to intervene. Upon application, any other person may be permitted to intervene upon a showing that he will be adversely affected by the outcome of the appeal, unless the board determines that his interest is adequately represented by one of the parties or intervenors to the appeal.

[Order 1, § 194-14-180, filed 1/18/77.]

**WAC 194-14-190 Appeal proceedings.** The provisions of chapter 1-08 WAC, shall govern all proceedings before the appeals board.

[Order 1, § 194-14-190, filed 1/18/77.]

**WAC 194-14-200 Prehearing conference.** In any proceeding the board may, upon its motion or upon the motion of one of the parties, direct the parties to appear at a specified time and place for a conference. Such notice shall be provided not less than five days before the date of the conference.

(2007 Ed.)

[Order 1, § 194-14-200, filed 1/18/77.]

**WAC 194-14-210 Informal disposition.** Informal disposition may be made of an appeal or any issue therein by stipulation, agreed settlement, or consent order at any point in the proceedings.

[Order 1, § 194-14-210, filed 1/18/77.]

**WAC 194-14-220 Transcript.** A verbatim record of the hearing shall be taken by a court reporter or recording equipment. A court reporter shall be used if demanded by any party, and the expense of the court reporter shall be paid by the demanding party, unless the office agrees otherwise. The verbatim recording will not be transcribed unless requested by a party. If a transcript is requested, the board may require the requesting party to pay the reasonable cost of preparing the transcript.

[Order 1, § 194-14-220, filed 1/18/77.]

**WAC 194-14-230 Judicial review.** The decision of the appeals board shall constitute a final decision for the purposes of RCW 34.04.130 and review of such final decision may be had to a superior court of competent jurisdiction pursuant to RCW 34.04.130.

[Order 1, § 194-14-230, filed 1/18/77.]

**WAC 194-14-240 Agency decision.** Every decision of the appeals board shall:

(1) Be correctly captioned as to name of proceeding and the fuel allocation appeals board;

(2) Designate all parties and counsel to the proceeding;

(3) Include a concise statement of the nature and background of the proceeding;

(4) Be accompanied by appropriate findings of fact and conclusions of law;

(5) Whenever practical, the conclusions of law shall include the reason or reasons for the particular order or remedy afforded.

A copy of the order shall be delivered or mailed to each party or his designated representative, and to any person readily identifiable by the appeals board as one who is aggrieved by such order.

[Order 1, § 194-14-240, filed 1/18/77.]

## Chapter 194-18 WAC RECEIPT OF FUNDS

### WAC

194-18-010

194-18-020

194-18-030

Authority.

Purpose.

Receipt of funds.

**WAC 194-18-010 Authority.** This chapter is promulgated pursuant to the authority granted in chapter 34.05 RCW and RCW 43.21F.045(12).

[Statutory Authority: RCW 43.21F.045(12), 89-15-013 (Order 89-11-083), § 194-18-010, filed 7/10/89, effective 8/10/89.]

**WAC 194-18-020 Purpose.** The purpose of this chapter is to set forth the means by which the Washington state

energy office may receive funds by specifying a list of "other devices" as found in RCW 43.21F.060(2).

[Statutory Authority: RCW 43.21F.045(12), 89-15-013 (Order 89-11-083), § 194-18-020, filed 7/10/89, effective 8/10/89.]

**WAC 194-18-030 Receipt of funds.** The Washington state energy office is empowered in RCW 43.21F.060(2) to receive funds "by means of contracts, grants, awards, payments for services and other devices." "Other devices" is defined as cash, negotiable instruments (e.g., checks, promissory notes), purchase orders, money orders, letters of credit, requests for advance or reimbursement, valid credit cards and charge cards issued by a bank or other financial institutions, and documented "in-kind" services.

[Statutory Authority: RCW 43.21F.045(12), 89-15-013 (Order 89-11-083), § 194-18-030, filed 7/10/89, effective 8/10/89.]

### Chapter 194-22 WAC

#### WASHINGTON STATE CURTAILMENT PLAN FOR ELECTRIC ENERGY

##### WAC

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194-22-140	Utility exemption from plan.
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194-22-160	Scheduling curtailment.
194-22-170	Purchase of curtailment requirements.
194-22-180	Consumer owned generation.
194-22-190	Return to normal operations.

**WAC 194-22-010 Purpose and goal.** The purpose of this chapter is to establish the process by which the state of Washington and Washington state utilities will initiate and implement statewide electric load curtailment when there is an insufficient supply of electric energy. This chapter constitutes the Washington state curtailment plan for electric energy (plan). The plan is not intended to be activated for relatively short-term emergencies such as those caused by extremely cold weather or the temporary loss of a major generating plant, but for regional, protracted shortages of electric energy. The plan will be activated by the department of community, trade, and economic development for regional emergencies for which regional curtailment is necessary. Such emergencies may or may not coincide with other emergencies for which other actions, such as repair of damaged facilities, are necessary.

The goal of this plan is to accomplish necessary curtailment while treating consumers fairly and equitably, minimizing adverse impacts from curtailment, complying with exist-

ing state laws and regulations, and providing for smooth, efficient, and effective curtailment administration.

[Statutory Authority: RCW 43.21F.045, 99-21-008, § 194-22-010, filed 10/8/99, effective 11/8/99; 94-20-103, § 194-22-010, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-020 Definitions.** "Base billing period" is one of the billing periods comprising the base year. Base billing period data may be weather-normalized at each utility's discretion before being used to calculate the amount of curtailment required by consumers.

"Base year" is the period from which required curtailment is calculated. It is normally the twelve-month period immediately preceding imposition of state-initiated load curtailment.

"Critical load consumer" includes consumers that supply essential services relating to public health, safety, welfare, or energy production, and includes but is not limited to those consumers listed in RCW 43.21G.030.

"Curtailment" means electric load reduction, irrespective of the means by which that reduction is achieved.

"Curtailment target" is the maximum amount of energy that a consumer may use and still remain in compliance with the state curtailment request or order; the curtailment target is figured individually for each consumer.

"Direct service industries" means industries, primarily aluminum plants, that receive electric power directly from the Bonneville Power Administration (BPA).

"Excess power consumption" is that amount of electric energy consumed during any billing period which is above the consumer's calculated curtailment target. It is calculated as one of two values:

\*Actual or estimated load minus curtailment target; or

\*Weather-normalized load minus curtailment target.

Under mandatory curtailment, if a consumer's electric energy consumption exceeds the threshold consumption level, all excess power consumption is subject to penalty unless exempted (see WAC 194-22-110, mandatory curtailment enforcement).

"General use customer" refers to any nonresidential consumer who purchased and consumed five average megawatts or less during the base year.

"Major use consumer" refers to any consumer who purchased and consumed over five average megawatts during the base year.

"Minimum audit level" is the minimum percentage of consumers in each consuming sector that must be audited each billing period under mandatory curtailment. The minimum audit level is set by the state and subject to change.

"Region" includes the states of Washington, Oregon, Idaho, and those portions of Montana that are west of the continental divide and/or within the control area of the Montana Power Company.

"Regional curtailment plan for electric energy, May 22, 1992" is the model document on which this plan is based. The regional curtailment plan for electric energy and appendices are a policy document the state will use to guide implementation of this plan. Where there are discrepancies, this chapter applies.

"Regional load" is the electric load placed by ultimate consumers within the region on their respective utility suppliers.

"State" means the department of community, trade, and economic development. Other state agencies which may participate in curtailment activities include: The office of the governor; the utilities and transportation commission; and the joint senate and house energy and utilities committee established during energy emergencies.

"State contacts" refers to individuals who represent the state of Washington in connection with curtailment issues.

"State-initiated" refers to actions taken by the state to implement load curtailment.

"Threshold consumption level" is the maximum amount of energy that a consumer can use during mandatory load curtailment without being subject to enforcement measures (see WAC 194-22-110, mandatory curtailment enforcement) taken under this plan. The threshold consumption level is set by the state and subject to change.

"Utility contacts" refers to individuals representing utilities in connection with curtailment issues.

"Utility coordinator" is the director of the northwest power pool.

"Utility curtailment reports" are reports summarizing curtailment data, which must be submitted monthly to the state and the utility coordinator. Reporting requirements are provided by the state to utilities.

"Weather-normalization" is the procedure used to reflect the impact of weather on utility load levels, sometimes referred to as "weather-adjustment."

[Statutory Authority: RCW 43.21F.045. 99-21-008, § 194-22-020, filed 10/8/99, effective 11/8/99; 94-20-103, § 194-22-020, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-030 Curtailment stages.** State curtailment directives apply to all retail loads served within the state of Washington. Under this plan, curtailment is requested or ordered as a percentage of historical, base billing period electric energy consumption, weather normalized at the discretion of each utility, for all individual residential, general, and major use consumers in the state of Washington. Curtailment stages are associated with increasing energy deficits, and are therefore likely to be implemented in a sequential manner, however, circumstances may require nonsequential implementation.

The five curtailment stages are:

Curtailment			
Stage #	Nature	Percent	Type of Curtailment
Stage 1	Voluntary	No specified %	Uniform among all consumers
Stage 2	Voluntary	5%+	Uniform among all consumers
Stage 3	Mandatory	5 to 15%	Uniform among all consumers
Stage 4	Mandatory	15% 15%+ 15%+	Residential consumers General use consumers Major use consumers
Stage 5	Mandatory	% associated with Stage 4+ additional curtailment	Continued consumer curtailment plus utility action, including plant closures and possible black-outs

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-030, filed 10/4/94, effective 11/4/94.]

(2007 Ed.)

**WAC 194-22-040 Initiation of load curtailment.** The state, in consultation with regional state and utility contacts, will determine if curtailment is required, and if so, the appropriate initial stage. It is the intent of the state to initiate statewide curtailment concurrent with Oregon, Idaho, and Montana, leading to an effective regional curtailment and consistent implementation policies. The state will formally notify the utility coordinator and all electric utilities operating within the state of Washington that regional and statewide electric load curtailment are in effect. If any stage associated with a specific level of curtailment is declared (Stages 2-5), the state will publicly announce the need for curtailment and provide all utilities operating within the state of Washington with written instructions regarding utility obligations during the period of state-initiated load curtailment. Upon notification by the state, utilities shall immediately initiate curtailment on their own systems in conformance with this plan.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-040, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-050 Curtailment administration—Stage by stage utility obligations.** Throughout the curtailment period, utilities will provide consumers with as much useful information as they reasonably can. The requirements specified below represent minimum actions to be taken. All requirements for lower level stages continue to apply to higher level stages. Utilities will provide information to the public, state and utility coordinator in conformance with the regional curtailment plan for electric energy, Appendix B, "Types of Curtailment Information."

(1) Stage 1 requirements: Utilities will begin providing curtailment information to all consumers. Utilities shall also assist states, as appropriate, in briefing the media about the shortage.

(2) Stage 2 requirements: Utilities will:

- (a) Notify consumers of the percentage level of state-initiated voluntary curtailment;
- (b) Provide curtailment tips to consumers;
- (c) Answer consumer questions about curtailment;
- (d) Provide curtailment reports to the states and the utility coordinator; and
- (e) Provide more detailed information to the media than provided in Stage 1.

(3) Stage 3 requirements: Utilities will:

- (a) Notify consumers of the percentage level of state-ordered mandatory curtailment;
- (b) Calculate base billing period data and curtailment targets for all consumers subject to audit in the current billing period;
- (c) Provide curtailment targets to all consumers who request such data for their own accounts;
- (d) Provide consumers with information about how to apply for exemption and adjustment of base year data (utilities may elect to provide this information only to audited consumers or those subject to penalties (see WAC 194-22-110, mandatory curtailment enforcement) under this plan);
- (e) Process requests for exemption and base year data adjustments from those consumers selected for audit who would otherwise be subject to penalties (see WAC 194-22-110, mandatory curtailment enforcement); and

(e) Process requests for exemption and base year data adjustments from those consumers selected for audit who would otherwise be subject to penalties (see WAC 194-22-110, mandatory curtailment enforcement); and

(f) Implement the enforcement requirements (see WAC 194-22-110, mandatory curtailment enforcement) of the plan.

(4) Stage 4 requirements: Utilities will notify consumers of any applicable changes in state-initiated mandatory curtailment.

(5) Stage 5 requirements: Utilities will collaborate with the state to develop and implement the most effective methods for securing the required load curtailment and to minimize the economic and human hardships of the last stage of load curtailment.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-050, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-060 Curtailment administration—Suggested curtailment actions.** Utilities will provide their consumers with curtailment information about actions they can take to reduce their electric energy consumption. The state and utilities will work together to develop this material. The recommendations will be based on the actions described in the regional curtailment plan for electric energy, Appendix C, "Curtailment Measures." Utilities are responsible for tailoring curtailment information to their service areas, adding utility-specific information, printing the material in an appropriate form, and disseminating it to their consumers.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-060, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-070 Curtailment administration—Base year, base billing period data.** The state will select a base year to be used in calculating curtailment targets for individual consumers. Base year and base billing period data may be weather-normalized at each utility's discretion using standard utility procedures, and will be calculated for any consumer audited under this plan. Utilities may elect to audit residential and general use consumers for whom no actual base year or base billing period data exists, but must estimate data for such consumers. Utilities will estimate base year and base billing period data for all major use consumers for whom no actual billing data exists.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-070, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-080 Curtailment administration—Curtailment targets.** Under voluntary curtailment utilities need do no more than provide curtailment tips to consumers, provided sufficient curtailment is being achieved equitably between states and utilities. At the direction of the state, utilities will provide individual consumers with curtailment targets. Utilities will provide retrospective, current, and forthcoming billing period curtailment target data to all consumers as directed by the state. Under mandatory curtailment the following will apply:

(1) At a minimum, utilities will provide retrospective, current, and forthcoming billing period curtailment target data to any audited consumer and to any consumer who so requests.

(2) Utilities may elect to audit up to one hundred percent of their customers, provided that each billing period minimum audit level requirements are met. Unless adjusted by the state, the minimum audit level will be at least one percent of

residential consumers, five percent of general use consumers, one hundred percent of major use consumers, and any consumer whose previous billing period consumption exceeded the threshold consumption level. Such consumers will continue to be audited until their energy use falls below the threshold consumption level. Once their energy use falls below that level, they will be audited again only if selected by sample.

(3) For audit, new samples will be drawn each month. The number of consumers exempted or excluded from audit will not affect the sample size.

(4) Unless a utility is auditing one hundred percent of its residential and general use consumers, all such consumers selected for audit will be chosen on a random sample basis, except that the following consumers will be excluded:

(a) Consumers granted an exemption under this plan; and

(b) Consumers with an estimated power bill in the current billing period.

Utilities may elect to exclude residential and general use consumers with estimated base billing period data, if the state does not require their inclusion in the pool of consumers subject to audit.

(5) Any existing curtailment of load based on contractual provisions between an industrial consumer and its utility does not count towards the consumer's required curtailment obligation to the state, excepting where such curtailment represents fifty percent of the consumer's base year consumption level. This exemption may be suspended by the state under Stage 5 of mandatory curtailment.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-080, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-090 Curtailment administration—Excess power consumption.** Excess power consumption is calculated at each utility's discretion as one of two values: Actual or estimated load minus curtailment target; or weather-normalized load minus curtailment target. Enforcement measures (see WAC 194-22-110, mandatory curtailment enforcement) will only be assessed on excess power consumption if a consumer's actual, estimated or weather-normalized load is greater than the threshold consumption level.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-090, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-100 Curtailment administration—Threshold consumption level.** The threshold consumption level assigned to each consumer class is identified in the table below. These values are subject to change by the state.

Type of Consumer	Threshold Consumption Level
Residential consumers	10% above curtailment target
General use consumers	10% above curtailment target
Major use consumers	2% above curtailment target

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-100, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-110 Curtailment administration—Mandatory curtailment enforcement.** The state will take whatever measures are available and appropriate at the time mandatory curtailment is instituted to ensure that consumers comply with the mandates of the plan.

Enforcement measures applicable to BPA's DSI customers may be assessed by the state based on billing data provided by BPA.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-110, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-120 Curtailment administration—Exemptions and adjustments.** (1) Utilities will inform consumers how to apply for exemption from plan requirements and for adjustments of base billing period data. Utilities may elect to process exemptions and adjustments only for audited consumers. Consumers seeking an exemption or adjustment shall apply first to their utility and then, if dissatisfied with that outcome, to the state.

(2) No automatic consumer exemptions will be granted under mandatory state-initiated load curtailment. Critical load consumers may be exempted once they have demonstrated to their utility that they have eliminated all nonessential energy use and are using any reliable, cost-effective backup energy resources. Exempted consumers should be informed that exemption may not protect them from Stage 5 black-outs.

(3) Exemptions for consumers not qualifying as critical load consumers under this plan will be evaluated based on whether curtailment would result in unreasonable exposure to health or safety hazards, seriously impair the welfare of the affected consumer, cause extreme economic hardship relative to the amount of energy saved, or produce counterproductive results.

(4) Utilities will maintain a list of all consumers applying for exemption, noting the account, the nature of the requested exemption (base year adjustment or exemption from the mandatory curtailment order), the rationale provided by the consumer, and the action taken by the utility with respect to the request. Records regarding exemption determinations will be made available to the department of community, trade, and economic development upon request.

[Statutory Authority: RCW 43.21F.045. 99-21-008, § 194-22-120, filed 10/8/99, effective 11/8/99; 94-20-103, § 194-22-120, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-130 Curtailment administration—State appeals board.** (1) In the event that mandatory curtailment is ordered, the state shall form an electricity curtailment appeals board (board) to process consumer requests for either exemption or adjustment of base year data where the consumer is appealing a utility determination. The board shall consist of twelve members: The director of the department of community, trade, and economic development or designee who shall serve as chair, the chair of the Washington utilities and transportation commission or designee, and one representative from each of the following groups as appointed by the governor; public utility districts, cooperative, municipal, and investor-owned utilities, county and municipal government, commercial and industrial users, and two citizens at large.

(2007 Ed.)

(2) The board will:

(a) Develop its own plans and procedures for hearing appeals;

(b) Initiate communications with utilities for receiving appeals; and

(c) Provide information to the governor for any case in which the board refuses to grant the requested exemption or adjustment.

(3) Throughout the appeals process, the state will periodically inform the appealing consumers and their respective utilities of the status of the appeals.

[Statutory Authority: RCW 43.21F.045. 99-21-008, § 194-22-130, filed 10/8/99, effective 11/8/99; 94-20-103, § 194-22-130, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-140 Utility exemption from plan.** The state expects all electric utilities to comply with all aspects of this plan, and to work together to assist each other in conforming to curtailment requirements. Nevertheless, utilities may appeal to the state requesting an exemption from any aspect of this plan. A petition for exemption shall identify specific requirements from which a utility wishes to be exempted, demonstration of need for the exemption, and alternative actions the utility will take in lieu of complying with plan requirements.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-140, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-150 Utility waiver of liability and financial relief.** Utilities are released from liability and may seek financial relief from the extraordinary costs of curtailment in accordance with RCW 43.21G.050 and 43.21G.080.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-150, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-160 Scheduling curtailment.** During periods of mandatory curtailment a consumer is obligated to provide the requisite amount of curtailment within each billing period. Within that billing period, and subject to equipment limitations and utility rules on load fluctuations, consumers are free to schedule their curtailment so as to minimize the economic cost, hardship, or inconvenience they experience as a result of the mandatory curtailment requirement.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-160, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-170 Purchase of curtailment requirements.** General and major use customers may, with approval from the state, and with the assistance and approval of effected utilities, sell curtailment requirements to other regional general and major use customers, which would allow reduced curtailment for one customer and a commensurate increase in curtailment requirements for the other. No arrangement under this section may be carried out that contravenes the goals of regional curtailment. No sale of curtailment requirements may result in a net increase in actual electricity consumption during the curtailment year.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-170, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-180 Consumer owned generation.** Consistent with the need for safety and system protection, consumers having their own generation facilities or access to electricity from nonutility power sources may use energy from those other sources to supplement their curtailed power purchases from their electric utility.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-180, filed 10/4/94, effective 11/4/94.]

**WAC 194-22-190 Return to normal operations.** The state will develop a plan for returning to normal utility operations based upon the circumstances at the end of the shortage. The nature of the actions required will depend on the last existing stage of curtailment and the actions taken and processes put in place during the curtailment. At a minimum, the procedures will address public information matters and the close-out of curtailment administrative procedures.

[Statutory Authority: RCW 43.21F.045. 94-20-103, § 194-22-190, filed 10/4/94, effective 11/4/94.]